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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,343	11/14/2003	Claude Basso	RPS920030063US1	9860
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Robert A. Voigt, Jr. WINSTEAD SECHREST & MINICK PC PO BOX 50784 DALLAS, TX 75201				
EXAMINER				
FEARER, MARK D				
ART UNIT		PAPER NUMBER		
2143				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/713,343

Applicant(s)

BASSO ET AL.

Examiner

MARK D. FEARER

Art Unit

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 8-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

- Applicant's Amendment filed 14 January 2008 is acknowledged.
- Claim 20 is new.
- Claim 2 has been amended.
- Claims 9-14 and 16-17 are cancelled.
- Claims 2-7 and 20 are pending in the present application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-7 and 20 are rejected under 35 U.S.C. 102(e) as being unpatentable over Berg et al. (US 20020116475 A1) in view of Colby et al. (US 6006264 A).

Consider claim 20. Berg et al. discloses a method for communicating a request packet in response to a state comprising an intelligent NIC comprising a network processor and a forwarding processor; receiving a request to establish a TCP connection from a client by a network processor in said load balancer (paragraphs 0052-0053 and 0060); receiving a request message from said client (paragraph 0008); bundling said request message and information from said handshake messages involved in establishing said TCP connection by said network processor (paragraph 0060); and transmitting said bundled message to said control processor by said network processor (paragraph 0146). However, Berg et al. fails to disclose a method of establishing a TCP connection with a client via handshake messages between a network processor and a client. Colby et al. discloses a method for directing a flow between a client and a server comprising a content aware flow switch, a web flow redirector, and flow admission control; establishing a TCP connection with a client via handshake messages between a network processor and a client (column 15 lines 11-20).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate a method for directing a flow between a

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client and a server comprising establishing a TCP connection with a client via handshake messages between a network processor and a client as taught by Colby et al. with a method for communicating a request packet in response to a state comprising receiving a request to establish a TCP connection from a client by a network processor in said load balancer; receiving a request message from said client; bundling said request message and information from said handshake messages involved in establishing said TCP connection by said network processor; and transmitting said bundled message to said control processor by said network processor as taught by Berg et al. for the purpose of TCP communication.

Consider claim 2, as applied to claim 20. Berg et al., as modified by Colby et al., discloses a method comprising the steps of: identifying a server in a server farm to service said client's request message by said control processor (Berg et al., paragraph 0060); bundling said client's request message and a control message by said control processor (Colby et al., column 1 lines 49-58); and transmitting said bundled message comprising said client's request message and said control message to said network processor (Berg et al., paragraph 0048 and 0159).

Consider claim 3, and as applied to claim 2. Berg et al., as modified by Colby et al., discloses a method wherein said server in said server farm is identified using information extracted from said client's request message (Berg et al., paragraph 0060).

Consider claim 4, and as applied to claim 2. Berg et al., as modified by Colby et al., discloses a method wherein said control message comprises information used to

enable said network processor to create entries in a forwarding table to ensure packets from said client are transmitted to said server and to ensure packets from said server are transmitted to said client (Berg et al., paragraphs 0091-0092).

Consider claim 5, and as applied to claim 2. Berg et al., as modified by Colby et al., discloses a method wherein said control message comprises information to establish a TCP connection between said load balancer and said server (Colby et al., column 1 lines 49-58).

Consider claim 6, and as applied to claim 2. Berg et al., as modified by Colby et al., discloses a method comprising the steps of: receiving a request to terminate said TCP connection from said server by said network processor; facilitating said termination of said connection between said server and said client; and a protocol stack comprising temporary memory tables, to include connection information and a method of transmitting session management packet bundles from a redirector device to a network interface controller. This reads on the claimed "... bundling information regarding a series of closed connections by said network processor; and transmitting said bundled message regarding said series of closed connections to said control processor by said network processor." ("If the packet is not a client request (e.g. TCP Flag set to ACK), the iNIC (in response to instructions of its balance thread) sends the packet and a reference to the connection endpoint (stored in the temporary table's matching record) to the protocol stack thread (which is executed by the iNIC's protocol stack processor).") paragraph 0159 ("Each of the n servers and the redirector device includes intelligent network interface controller ("iNIC") circuitry, as shown in FIG. 2a. Within the server

farm, each of the n servers and the redirector device (with its respective iNIC) has a respective IP address that is advertised to clients through the IP network. The redirector device and the servers communicate with one another through the iNICs, in order to operate together in a cooperative manner as a distributed system.”) Berg et al., paragraph 0064).

Consider claim 7, and as applied to claim 6. Berg et al., as modified by Colby et al., discloses a method wherein packet information is extracted and exchanged between a client and a server. This reads on the claimed “The method as recited in claim 6 further comprising the step of: extracting information from said bundled message regarding said series of closed connections by said control processor.” (“Accordingly, in such a situation, server 2’s iNIC (in response to instructions of its ipOS): (a) in response to such information received from server 1’s iNIC establishes a connection endpoint in the memory of server 2’s iNIC for the particular client-server socket-based application connection; (b) if appropriate for the packet, processes and sends information from the packet to server 2’s application layer; and (c) if appropriate for the packet, processes and sends response packets to the client through the IP network in response to information from server 2’s application layer. The protocol stack processor of server 2’s iNIC (in response to instructions of its ipOS) adds suitable header information to the response packet and sends it to the client through the IP network-connected port (IP 123.123.123.3) of server 2’s iNIC.”) Berg et al., paragraph 0102).

Response to Arguments

Applicant's arguments filed 24 January 2008 with respect to claims 2-7 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any response to this Office Action should be faxed to (571) 273-8300 or mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Mark Fearer whose telephone number is (571) 270-1770. The Examiner can normally be reached on Monday-Thursday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Mark Fearer
M.D.F./mdf
May 19, 2008

/Ashok B. Patel/

Primary Examiner, Art Unit 2154